

NOTICE OF PUBLIC HEARING ON PROPOSED RULE AMENDMENTS

Location: Gulf Shores City Council Chambers
1905 West First Street
Gulf Shores, AL 36542

Date: Friday, June 23, 2006

Time: 9:00 a.m.

Comments can be presented at the public hearing or by written comments. Address any written comments to D. Philip Lasater, Executive Director, Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama 36106. Comments may also be faxed to 334.270.9118. The deadline for written comments is 4:30 p.m. on July 7, 2006.

To view and/or download the rule amendments in their entirety, go to the Commission's Web site at www.arec.alabama.gov. The link can be found in the scrolling marquee titled "What's New."

790-X-1-.10. Application, Fees And Renewal Requirements For Instructors, Courses, And Schools.

(1) Schools and instructors must submit application for approval on forms prescribed by the Commission. Instructors must submit application for course approval on a form prescribed by the Commission. Instructor, course and school approvals must be renewed every two years in the odd numbered years. The approval period shall run from October 1 of the first year of the approval period through September 30 of the second year of the approval period. All schools must name an individual associated with the school to serve as the school administrator. The school administrator will be the contact person for all course offerings and activities related to real estate education that are offered at the school.

(2) School and instructor renewal reminders shall be sent by the Commission to instructors by August 1 of the second year of the approval period. Instructors must renew their approval online and school administrators must renew their school approval online.

(3) School renewal: School administrators must renew the school approval no later than August 31 of the second year of each approval period. Failure to meet this deadline will result in the school being placed on inactive status. If placed on inactive status, the school cannot enroll any additional students until the approval is renewed.

(4) Instructor renewal: Instructors must renew their instructor approval no later than August 31 of the second year of each approval period. Failure to meet this deadline will result in the instructor being placed on inactive status. If placed on inactive status, the instructor cannot teach any classes until the approval is renewed.

(a) Real estate instructors must complete 12 hours of instructor training courses approved by the Commission no later than August 31 of the second year of each approval period. These instructor training courses must be taken in addition to the continuing education courses required for renewal of a salesperson or broker license. Instructor training courses may not be used to satisfy requirements for renewal of a real estate license nor may courses taken for real estate license renewal be used to satisfy requirements for instructor renewal.

(b) Instructor applicants approved in the second year of the approval period, instructors who teach only continuing education courses or full time college instructors shall not be required to complete 12 hours of instructor training courses for renewal of instructor approval.

(5) Course Renewal: In order to retain approval for each course, the instructor must submit the renewal fee and file an updated outline and learning objectives with the renewal form. Courses which are not renewed by the deadline set forth by the Commission will be deleted from that instructor's list of approved courses. Once a course is deleted, it is subject to all requirements of new courses and cannot be offered until written approval has been received from the Commission.

(6) Fees: The initial fee for instructor approval shall be \$50 per year or any portion thereof except that instructors who teach only elective continuing education shall pay an initial fee of \$25 per year or any portion thereof. The fee for instructor renewal shall be \$100 for the two

year approval period. For those who teach only elective continuing education the fee shall be \$50 for the two year approval period. The initial course review fee shall be \$100. The fee for course renewal shall be \$50 per course for the two year approval period. An initial course constitutes either one being submitted for the first time or an existing course which incurs substantial changes as determined by the Commission. With the exception of distance education courses, all courses for which the Commission supplies a course outline do not require either the \$100 initial course review fee or the \$50 renewal fee for approval.

(7) Instructors who teach only college credit courses shall not be required to pay either the initial instructor or course application fee or the instructor or course renewal fee and shall not be subject to instructor renewal requirements specified in paragraph 4(a).

(8) Deadline for Renewal: Schools and instructors must be renewed on or before August 31 of the second year of each approval period in order for the respective approval to be renewed on a timely basis for the following approval period.

(9) Failure by instructors to meet the August 31 deadline shall result in approval being terminated until the instructor meets all renewal requirements. If renewal requirements are not met by ~~September 30~~ December 31 of the first year of the next approval period, the approval may not be renewed and the instructor must apply as an original applicant and meet all requirements applicable to new instructors.

(10) Failure by instructors to meet the August 31 deadline for course renewal shall result in course approval being terminated until the instructor meets all renewal requirements. If course renewal requirements are not met by December 31 of the first year of the next approval period, the course may not be renewed and the instructor must submit a new course application and meet all requirements applicable to new courses.

~~(10)~~ (11) Failure by the administrator of an approved school to meet the August 31 filing deadline will result in the approval for that school being terminated until renewal requirements are met. If renewal requirements are not met by ~~September 30~~ December 31 of the first year of the next approval period, the approval may not be renewed and the administrator must submit a new school application and meet all requirements applicable to new schools.

~~(11)~~ (12) All instructors must attend training programs as directed by the Commission in order to retain approval.

Author: Alabama Real Estate Commission

Statutory Authority: Code of Ala. 1975, §§ [34-27-6](#); [34-27-8](#).

History:

790-X-1-.12. Continuing Education Course Approval And Requirements.

- (1) All instructors of continuing education courses, except those who teach only college credit courses, must apply for course approval on a form prescribed by the Commission along with a \$100 course review fee and all required documents.
- (2) Approved continuing education courses must be taught only by approved instructors. Otherwise those completing the course cannot receive credit toward meeting continuing education requirements.
- (3) In order to be approved for continuing education credit, courses must contain a minimum of three (3) clock hours of instruction. A licensee cannot earn more than nine (9) hours of continuing education credit in any one day. Upon special request courses which contain one and one-half (1 ½) hours may be approved by the Commission.
- (4) Course sponsors may not hold courses out as approved, enroll students or conduct classes for which students expect to earn continuing education credit prior to the course instructor receiving written approval to teach the course from the Commission. Course instructors should submit the course application to the Commission at least 30 days prior to the proposed beginning date of the course.
- (5) Course sponsors must report all required course information including the exact location, times and dates of the courses to the Commission via the electronic submission program provided by the Commission at least one week prior to the beginning of each course. Should changes occur in this information, course sponsors must submit the changes immediately via the electronic submission program provided by the Commission.
- (6) ~~The instructor~~ Course sponsors shall within ten (10) days of course completion, report credit for the students who successfully completed the course to the Commission via the electronic submission program provided by the Commission.
- (7) Each licensee shall be responsible for checking the Commission Web site two (2) weeks after course completion to ensure course credit has been accurately reported. If it has not been accurately reported, it is the licensees' responsibility to contact the instructor or school and have the correct information sent to the Commission.
- (8) Each course sponsor shall maintain permanent attendance records for its students for a minimum of four (4) years. If a school closes because it merges with another school or is bought by another school, the records for the previous four years shall be turned over to and become the responsibility of the new school. If a branch school closes, the records for the previous four years shall be turned over to and become the responsibility of the main school. In the event a school closes and there is no school to whom the records would revert, the attendance records for the previous four years must be turned over to the Commission so that student course completion can be verified for the required period of time.
- (9) No more than one-third of any continuing education class can be presented through videotape unless the course is an ARELLO certified distance education course.

(10) Students must attend 100% of the course offering in order to be awarded continuing education credit. Instructors may take a 10-minute break after each 50 minutes of instruction. Credit will not be given for time spent on meals or other unrelated activities.

(11) Prior to becoming licensed, a person cannot earn real estate continuing education credit.

(12) Salespersons who obtain an original broker's license during the second year of the license period are not exempt from meeting continuing education requirements.

(13) Any licensee who completes the 15 hour broker prelicense course or the 30 hour post license course will earn 15 clock hours of continuing education credit. A temporary salesperson who takes a post license course which begins in one license period and concludes in the next license period can use the course for continuing education credit for the next renewal of his/her original license.

(14) Instructors must provide each student in any approved continuing education class with instructions on how they can electronically submit a course evaluation to the Commission.

(15) Any licensee who completes a continuing education classroom course or an ARELLO certified distance education course in another state which is approved by any state, may receive credit in Alabama for successful completion of that course by submitting appropriate documentation as prescribed by the Commission. Such courses will count as elective continuing education credit only. These courses are not subject to renewal procedures, instructor application and fee or the course review fee.

Author: Alabama Real Estate Commission

Authority: Code of Ala. 1975, §§ 34 27 6, 34 27 8, 34 27 35, 34-27-36

History:

790-X-1.-16. Review Of Approved Schools, Courses And Instructors.

(1) All approved schools, courses and instructors are subject to review by the Alabama Real Estate Commission. In the event of such a review, school officials shall make available to the authorized representative of the Commission all records requested which are necessary to the review.

(2) Students shall have access to an electronic evaluation form prescribed by the Commission to evaluate Commission approved instructors.

Author: Alabama Real Estate Commission

Statutory Authority: Code of Ala. 1975, §§ 34-27-6, 34-27-8.

History:

790-X-1-.17. Disciplinary Actions For Instructors and Schools/ Course Sponsors.

The Commission shall revoke or suspend the approval for any instructor and/or school or course sponsor who:

- (1) Is a party to any falsification of any document or other information provided to the Commission.
- (2) Does an inadequate job of teaching the subject matter as evidenced by student's poor performance on the state examination, student evaluations and/or Commission audits.
- (3) Publishes or causes to be published any advertising which is not in accordance with Rule 790-X-1-.15.
- (4) Is guilty or has been found guilty of violating or disregarding any provision of the Alabama Real Estate License Law or any rule, regulation or order of the Commission.
- (5) After receiving written warning from the Commission, continues to make inaccurate comments to students regarding course content or continues to offer opinions represented as being the law on principles of law to students which are in conflict with any material contained in a Commission prescribed or approved course.
- (6) Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.
- (7) Engages in inappropriate conduct in the classroom including but not limited to the use of profanity, telling offensive jokes, and making inappropriate remarks unrelated to the subject matter.
- (8) Fails to file with the Commission, either by paper or electronically, accurate and complete records or fails to furnish any documents at the request of the Commission by the required deadlines ~~as set forth in Rules 790-X-1-.06 and 790-X-1-.12.~~
- (9) Awards credit to any student who fails to comply with the student attendance participation standards as set forth in Rule 790-X-1-.14.
- (10) Fails to comply with the classroom facilities requirement set forth in Rule 790-X-1-.19.
- (11) A revocation of instructor approval shall be for a period of two years. Any instructor whose approval has been suspended or revoked shall not be reapproved without meeting all current instructor requirements and being approved by the Commission.

Statutory Authority:

Code of Ala. 1975, §§ 34-27-6, 34-27-8, 34-27-36.

History:

790-X-2.-07. Place Of Business and Signage

~~A licensed broker living in a rural area of this state may operate from his home, provided that he sets up and maintains an office for the conduct of the real estate business, which office shall not be used for living purposes or occupancy other than the conduct of the real estate business; provided further, such office shall be used by the broker only and not as a place of business from which (an) additional licensee(s) may operate under his license. Such office must have a separate telephone, separate entrance, and be properly identified as a real estate office. All licensees located within the city limits and/or police jurisdiction of a municipality must operate from a separate office. Hardship cases may be subject to waiver of this regulation upon application and approval by the Commission.~~

A place of business shall be identified by a sign which sets out the name of the company as licensed with the commission. In places where an exterior sign is permitted a sign shall be posted outside of the office so that it is plainly and readily visible to the public. In places where an exterior sign is not permitted, an interior sign shall be posted. The interior sign shall be in keeping with the building restrictions, and if permitted, shall be posted in the entry area and on the door of the office or suite of offices. Appropriate files and records shall be maintained in the place of business.

Author: Alabama Real Estate Commission

Statutory Authority:

Code of Ala. 1975, §§ [34-27-8](#), [34-27-34\(a\)\(d\)](#).

History:

790-X-2-.17. Display Of License.

The real estate licenses of all ~~corporations~~ companies, ~~partnerships~~, branch offices, brokers, and ~~salesmen~~ salespersons shall be publicly displayed at the place of business. The qualifying broker shall be responsible for displaying only those licenses which show the current status of the licensee.

Author: Alabama Real Estate Commission

Statutory Authority:

Code of Ala. 1975, § [34-27-8](#).

History:

790-X-2-.21. License Transfers. Repealed

(1) A \$25.00 fee shall be required of a licensee when a change on a license certificate necessitates the issuance of a new license certificate, i.e., name change, address change, transfer, etc.

(2) The qualifying broker is responsible for the immediate return of any license certificate which is in need of any change.

Author: Alabama Real Estate Commission

Statutory Authority:

Code of Ala. 1975, §§ [34-27-8](#), [34-27-34](#),
[34-27-35](#).

History:

790-X-3.-03. Deposit Of Funds.

(1) The deposit and accounting for at all times of all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama shall require that the qualifying broker be a customer of the financial institution holding all such accounts and the qualifying broker shall have full authority to deposit and withdraw funds and to write or make checks as necessary on all such accounts.

~~(1)~~ (2) Each real estate salesman or associate broker shall pay over to his or her qualifying broker all funds coming into his or her possession in trust for other parties immediately upon receipt of same.

~~(2)~~ (3) Each qualifying broker is responsible for deposit of all funds belonging to others coming into his or her possession or of a salesperson or associate broker licensed under him or her where such funds are to be held in trust, unless the qualifying broker is expressly relieved of such responsibility in writing. In cases where the funds are U. S. currency, i.e. cash as opposed to a check or note, these funds shall be deposited immediately. In cases where a check is received as earnest money and the contract form states that the check is to be held for a specific length of time or until the occurrence of a specific event, then the check shall be deposited when the contract form states, or if no time for deposit is specified in the contract form, then the check shall be deposited when the offer becomes a contract.

~~(3)~~ (4) Funds to be held in trust under a contract for sale involving more than one qualifying broker shall be held and deposited by any of the qualifying brokers involved in the sale. All funds to be held in trust, whether by contract for sale, or by lease or property management agreement, shall be held and deposited by the qualifying broker who is providing these services to the owner. In cases where a successor qualifying broker is to provide these services, the first broker shall provide a complete accounting of the funds and shall transfer the funds to the successor broker. The qualifying broker who is currently providing services to the owner shall be responsible to the public and to the commission for all funds. Upon request by the Commission or its authorized representative, each qualifying broker shall promptly account for any trust funds being held by that qualifying broker.

~~(4)~~ (5) Each qualifying broker shall promptly disburse to the appropriate party or parties any trust funds within 7 days of the consummation of the transaction for which the funds were deposited. If for any reason the transaction is not consummated, or if for any reason there is a disagreement involving to whom trust funds should be disbursed, the qualifying broker shall not disburse any trust funds except pursuant to a written agreement signed by all parties or pursuant to a court order.

~~(5)~~ (6) This Rule shall not prohibit a broker from depositing with the appropriate court any trust funds which are the subject of disagreement among or between parties under the rules of interpleader or other lawful procedure.

Author: Alabama Real Estate Commission

Statutory Authority: Code of Ala. 1975, §§ [34-27-8](#), [34-27-36\(a\)](#).

History: